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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/196,673	11/20/1998	JOHN MCCAFFERTY	28111/32106B	9420

7590 03/24/2003

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EXAMINER

PONNALURI, PADMASHRI

ART UNIT PAPER NUMBER

1639

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/196,673

Applicant(s)

McCafferty et al

Examiner

Padmashri Ponnaluri

Art Unit

1639



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Feb 6, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Sep 11, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE:

3. ☒ Applicant's reply has overcome the following rejection(s):
The proposed amendment would overcome the rejection of independent claim 145 and the dependent claims.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see the attached
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 45-65 and 145
- Claim(s) objected to: none
- Claim(s) rejected: 78-109
- Claim(s) withdrawn from consideration: 66-77 and 110-144
8. ☒ The proposed drawing correction filed on Mar 13, 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

PADMASHRI PONNALURI
PRIMARY EXAMINER
ART UNIT 1639

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ADVISORY ACTION

1. The proposed amendments filed on 8/19/02 and the response filed on 2/6/03 and the amendments to the specification filed on 3/13/03 have been fully considered and entered into the application.

2. The instant application has claims 66-77, 110-144 which are withdrawn from consideration, still pending in this application. Applicants are requested to cancel the non-elected claims.

3. The proposed amendments to the claims do not overcome the rejections of record for the following reasons:

4. Applicants amends independent claim 145 to recite that the enzyme or enzyme fragment thereof is a non-immunological protein. Thus claim 145 and the dependent claims 45-65 would overcome the art rejections of record.

However the art rejection of record includes independent claims 78, 80, 82, 84 which were not amend to overcome the art rejection. Thus art rejection of record would still read on claims 78-109. Applicants arguments are not persuasive to overcome the art rejection of record.

5. The information disclosure statement filed on 3/13/03 fails to comply with 37 CAR 1.97© because it lacks the fee set forth in 37 CAR 1.17(p) and fails to comply with 37 CAR 1.97(d) because it lacks the petition fee set forth in 37 CAR 1.17(I). It has been placed in the application file, but the information referred to therein has not been considered.

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6. The information disclosure statement filed on 2/6/03 along with a petition to expunge have been placed in the application. Examiner would consider the references upon the petition is granted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Ponnaluri whose telephone number is (703) 305-3884. The examiner is on *Increased Flex Schedule* and can normally be reached on Monday to Friday from 7.00 AM to 3.30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached on (703) 306-3217. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

P. Ponnaluri
Primary Examiner
Technology Center 1600
Art Unit 1639
19 March 2003


PADMAASHRI PONNALURI
PRIMARY EXAMINER